

INFORMATION PAPER

DAJA-LA
6 December 2002

SUBJECT: Combat Zone Tax Benefits for Military Operations

1. Purpose. To provide information about combat zone and qualified hazardous duty area tax benefits.

2. Facts.

a. Through Executive Order 13119 and Public Law 104-117, military service in most of the land area of what was formerly Yugoslavia, (Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, Bosnia and Herzegovina, Croatia, and Macedonia), the entire Adriatic Sea, the Ionian Sea north of the 39th parallel, and the airspace over these areas qualifies for combat zone tax treatment.

b. Executive Order 12744 designates the Arabian Peninsula a combat zone effective 17 January 1991.

c. Executive Order 13239 designates Afghanistan and its airspace as a combat zone effective 19 September 2001.

d. Service members and their spouses may be eligible for these combat zone tax benefits:

(1) IRC § 2(a)(3) - Relating to special rule for determining "surviving spouse status" where the military spouse, in a missing status, is subsequently determined to be deceased.

(2) IRC § 112 - Providing for the exclusion from gross income of active duty pay earned in any month a service member serves in a combat zone. Enlisted or commissioned warrant officers can exclude all of their basic and imminent danger pay. Commissioned officers may exclude up to \$5,382 of their pay.

(3) IRC § 692 - Exempting from income tax wages for the year of death of members of Armed Forces who die while serving in a combat zone.

(4) IRC § 2201 - Reducing estate taxes of service members dying in combat zone or by reason of combat-zone-incurred wounds.

(5) IRC § 3401(a)(1) - Aligning amount of Federal income tax withheld with income earned in a combat zone.

(6) IRC § 4253(d) - Exempting from excise tax, toll telephone calls originating from a combat zone from service members.

(7) IRC § 6013(f)(1) - Allowing a spouse to file a joint return where service member individual is in missing status.

(8) IRC § 7508 - Providing at a 180-day extension after departing the combat zone for filing, paying, and performing certain other tax related acts. These provisions apply to certain civilians in the combat zone in support of the U.S. Armed Forces, such as Red Cross personnel, accredited correspondents, and civilian personnel acting under the direction of the U.S. Armed Forces.

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e. Service members performing military service outside of a combat zone or qualified hazardous duty area receive these combat zone tax benefits when the Secretary of Defense determines:

(1) Their service directly (as opposed to remotely or indirectly) supports military operations in the combat zone;

(2) Their service qualifies them for hostile fire pay or imminent danger under 37 U.S.C. § 310; and

(3) The reason for paying imminent danger/hostile fire pay is based on risks/dangers related to the QHDA or CZ.

The Secretary of Defense, pursuant to regulatory authority, certified that military personnel in Uzbekistan, Kyrgyzstan, Pakistan, Tajikistan, and Jordan are eligible for combat zone tax treatment due to their direct support for the operations in the Afghanistan combat zone. The Secretary of Defense also certified that military personnel serving in Yemen as of 10 April 2002 are eligible for combat zone tax treatment due to their direct support for the operations in the Afghanistan combat zone. Military personnel deployed to the Republic of the Philippines in conjunction with Operation Enduring Freedom are in direct support of the Afghanistan combat zone. The effective date for the Philippines is 9 January 2002. Military personnel serving in Djibouti are also eligible for combat zone tax exclusion due to being in direct support of the Afghanistan combat zone. The effective date for Djibouti is 1 July 2002. Personnel serving in these areas qualify for full combat zone tax treatment as long as these conditions remain in effect.

f. DoD terminated imminent danger pay for the following areas as of 15 September 1999. Service members serving in a direct support role in these areas no longer qualify for combat zone tax benefits (after 15 September 1999):

(1) The Adriatic Sea and the Ionian Sea north of the 39th parallel.

(2) Italy: Land areas of Aviano Air Base; Cervia Air Base; Gioia del Colle Air Base; Trapani Air Base; Vicenza (all military installations and facilities); San Vito Air Station; Brindisi (all military installations and facilities); Naples (all military installations and facilities including the port of Naples); Sigonella and Augusta Bay (all military installations and facilities including the ports of Catania and Augusta Bay); Gaeta (all military installations and facilities including the port of Gaeta); and Bari (all military facilities).

(3) Greece: Land area of Souda Bay (all military installations and facilities including the port of Souda Bay); Thessaloniki, land area within a 25 kilometer radius of 40°27'N, 22°59'E; waters of Thessaloniki north of 40°15'N.

(4) Hungary: Taszar, land area within 50 kilometer radius of 46°23'N, 17°55'E.

g. Soldiers with questions on combat zone tax benefits should contact supporting legal assistance offices.